

**DURHAM, NORTH CAROLINA
MAY 7, 2007
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Absent: None.

Also present: City Manager Patrick Baker, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order requesting a moment of silent meditation and the Pledge of Allegiance led by Council Member Clement.

CEREMONIAL ITEMS/ANNOUCEMENTS BY COUNCIL

Mayor Bell read a proclamation proclaiming May as Drinking Water Month and presented certificates to the following water poster contest winners: Brenden Hill - 1st Place; Juliana Miglarese - 2nd Place; Olivia Ingram - 3rd Place; Christopher Camita - 1st Place; Amber McDonald - 2nd Place and Elayne Wang - 3rd Place.

The Mayor also read proclamations declaring May 11-20, 2007 as the 38th Annual Bimbe' Cultural Arts Festival Week presented to Interim Parks & Recreation Director Rhonda Parker who made comments; May 13-20, 2007 as Police Week and May 9, 2007 as Peace Officers' Memorial Day presented to Deputy Police Chief Hodge who made comments and May 7, 2007 as World Aids Orphans Day.

Mayor Pro Tempore Cole-McFadden recognized Fire Marshal Kenneth Crews who introduced the Jr. Fire Marshal graduates.

The Mayor Pro Tem recognized the Youth Council for a presentation. President Angelica Powell gave an update of what they have accomplished.

Richard Hill, President of Sister Cities, introduced a delegation from Kostroma and made comments regarding the Sister Cities program.

City Council Members made comments on the following events attended and special recognition of individuals, organizations, etc:

Council Member Woodard: new DATA facility/city staff; Lead Summit/city staff, Unsafe Properties Summit/city staff; Duke Hospice Gala/staff; Annual Awards of the Volunteer Center/staff and winners; Women-in-Action Annual Awards Banquet--Ann Atwater Pettiford; Sun Trust Gold Star Award Banquet/Teacher of the Year; St. Paul Lutheran Church groundbreaking; and Love N Care Child Academy 20th anniversary.

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Council Member Catotti: Lead Summit and Unsafe Properties Summit/staff; Durham CAN; Duke for adopting a liveable wage policy for contractors; Historic Home Tour; and Trip to Baltimore sponsored by Downtown Durham, Inc. to review economic development projects.

Mayor Pro Tempore Cole-McFadden: DATA facility; Hotel Indigo groundbreaking; Lead Summit; Chuck Davis performance at the N C School of Math and Science; National Council of Negro Women; Youth Concert at Mt. Calvary United Church for Christ; State of Durham's Children at the Carolina Theatre; Make a Difference Day Breakfast; EMS Station and Sheetz grand opening; Cartridge World ribbon cutting at North Pointe Shopping Center; United Minority Contractors of North Carolina Banquet; graduation for Phoenix and Dove House; Durham CAN; National Day of Prayer event at Marriott plaza; University of Water Management graduation ceremony and her son's graduation in Burbank, California.

Council Member Clement: American Red Cross 90th Anniversary at the Hill House; Dance Theater South presentation at the Carolina Theatre; Weaver Street Community Day/staff; and Baltimore Trip sponsored by Downtown Durham, Inc./ staff.

Council Member Woodard: Congratulated Mayor Pro Tempore Cole-McFadden for receiving an award at the National Council of Negro Women's Awards event.

Mayor Pro Tempore Cole-McFadden: TROSA ribbon cutting.

Mayor Bell thanked his colleagues for participating in activities representing the City and stated he had an opportunity to attend some of the events mentioned by Council.

PRIORITY ITEMS BY THE CITY MANAGER, CITY ATTORNEY AND CITY CLERK

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk.

Relative to GBA Item #23 Economic Development Incentive Contract with Capitol Broadcasting Company, Inc., City Manager Baker requested that Council vote on the second motion first and separately from the remaining motions on the agenda. Also, he noted Supplemental Agenda Item #26 [Modification of the Resolution Establishing a Job Creation and Retention and Investment Incentive Policy] is in conjunction with GBA Item #23.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to accept the City Manager's priority items was approved at 7:56 p.m. by the following vote: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

There were no priority items from the City Attorney and City Clerk.

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Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Items: 8, 9, 12, 13, 15 and 24 were pulled.

MOTION by Council Member Stith seconded by Council Member Woodard to approve the Consent Agenda as amended was approved at 7:59 p.m. by the following vote: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

CONSENT AGENDA

**SUBJECT: COMPLIANCE WITH TRAVEL POLICIES AND PROCEDURES
(FEBRUARY 2007)**

MOTION by Council Member Stith seconded by Council Member Woodard to receive and accept the Compliance with Travel Policies and Procedures (February 2007) Audit as approved at the March 26, 2007 meeting of the Audit Services Oversight Committee was approved at 7:59 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES

MOTION by Council Member Stith seconded by Council Member Woodard to approve City Council minutes for the April 2, 2007 City Council Meeting was approved at 7:59 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: DURHAM OPEN SPACE AND TRAILS COMMISSION - RECEIPT
AND ACCEPTANCE OF AN APPLICATION**

MOTION by Council Member Stith seconded by Council Member Woodard to receive and accept an application for a citizen to fill one (1) vacancy on the Durham Open Space and Trails Commission to represent At-large with a term to expire on June 30, 2008 was approved at 7:59 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: URBAN MINISTRIES OF DURHAM (UMD) 06-07 CDBG SUB-
RECIPIENT CONTRACT**

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MOTION by Council Member Stith seconded by Council Member Woodard to authorize the expenditure of CDBG funds in an amount not to exceed \$30,000.00;

To authorize the City Manager to execute a 12-month sub-recipient contract with Urban Ministries of Durham, Inc. to support their community kitchen; and

To authorize the City Manager to make changes to the documents that do not increase the contract amount, lessen the Sub-recipient's duties or extend the term of the contract by more than an additional two (2) months was approved at 7:59 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: JOHN AVERY BOYS AND GIRLS CLUB, INC. 06-07 CDBG SUB-RECIPIENT CONTRACT

MOTION by Council Member Stith seconded by Council Member Woodard to authorize the expenditure of CDBG funds in an amount not to exceed \$37,000.00;

To authorize the City Manager to execute a 12-month sub-recipient contract with John Avery Boys and Girls Club, Inc. to provide safe and structured alternatives to gang activities; and

To authorize the City Manager to make changes to the documents that do not increase the contract amount, lessen the Sub-recipient's duties or extend the term of the contract by more than an additional two (2) months was approved at 7:59 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: CITY OF DURHAM SMALL BUSINESS COMPREHENSIVE PLAN

MOTION by Council Member Stith seconded by Council Member Woodard to adopt the City of Durham Small Business Comprehensive Plan was approved at 7:59 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: CONTRACT M.07.1 RIGHT OF WAY TRACTOR MOWING AND LITTER AND DEBRIS REMOVAL - DIXIE LAWN SERVICE, INC.

MOTION by Council Member Stith seconded by Council Member Woodard to authorize the City Manager to execute a contract with Dixie Lawn Service, Inc. for contract M.07.1 Right-of-Way Tractor Mowing and Litter and Debris Removal with a three year cost of \$1,006,384.30: and

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To authorize the City Manager to modify the agreement before execution provided that the modifications do not increase the dollar amount of the agreement and are consistent with the agenda item and contract version as approved by Council was approved at 7:59 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: YOUTH SERVICE AMERICA AND BUBEL AIKEN
FOUNDATION GRANT PROJECT ORDINANCE SUPERSEDING
GRANT PROJECT ORDINANCE #13381**

MOTION by Council Member Stith seconded by Council Member Woodard to authorize the City Manager to accept the Youth Service America and Bubel Aiken Foundation Grant by executing the grant documents; and

To adopt the Youth Service America and Bubel Aiken Foundation Grant Project Ordinance superseding Grant Project Ordinance #13381 was approved at 7:59 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13400

SUBJECT: TARGET GRANT AWARD

MOTION by Council Member Stith seconded by Council Member Woodard to authorize the City Manager to accept the Target grant by executing the grant documents; and

To adopt the Target Grant Project Ordinance in the amount of \$1,000.00 was approved at 7:59 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13402

The City Council disposed of the following agenda items at the April 19, 2007 Work Session.

4. Capital Program Advisory Committee Quarterly Report

To receive the quarterly report from the Capital Program Advisory Committee for the period January – March 2007.

Note: A report was received at the April 19, 2007 Work Session.

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10. Purchase and Contract Approval Thresholds

To adopt a Resolution to supersede Resolution #7638 and grant the City Manager authority to make, approve, award, amend and execute service contracts that do not exceed \$150,000.00 for services; and

To authorize the City Manager to request the N. C. General Assembly to allow the City Council to have the power to provide authority to the City Manager to make, approve, award, amend and execute contracts for purchases, and contracts for construction and repair work. The requested authority would allow the Council to impose restrictions, such as dollar amount ceilings on the City Manager's authority.

Note: This item was referred back to the administration – Finance Department.

17. Gang Assessment Update

To receive a presentation by Deborah Weisel on the progress of the Gang Assessment that is being conducted by Buddy Howell and Deborah Weisel.

Note: A presentation was received at the April 19, 2007 Work Session.

[GENERAL BUSINESS AGENDA]

SUBJECT: APPROVAL OF THE FY 07-08 ANNUAL ACTION PLAN FOR THE USE OF CDBG, HOME/ADDI AND ESG FUNDS

Director of Community Development Mike Barros made comments on the additional information provided to Council as a result of questions raised at the previous Council Meeting.

Council Member Catotti asked staff to provide citizens, upon request, with the follow-up information that was provided to Council regarding the FY 07-08 Annual Action Plan and to provide a date of completion for all pending items listed in the Subrecipient Housing Projection - Five Year History table.

Associate Director Larry Jarvis discussed what is included in the Annual Action Plan to address CDBG funding for transitional housing commenting on the Andover III project and Volunteers of America proposal that will be completed this year.

Mayor Pro Tempore Cole-McFadden asked staff to set more goals for transitional housing for the homeless.

Council Member Brown asked staff why the City does not have any NRSA--

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Neighborhood Revitalization Strategy Areas.

Associate Director Larry Jarvis noted the NRSA is a federal designation that has nothing to do with the entitlement amount that the City receives. He stated the primary purpose is to allow localities to go beyond the 15% public services cap. Mr. Jarvis indicated staff does not recommend having NRSA because of complex procedures and is focusing their limited funds on actual physical improvements, construction of housing, elimination of substandard structures and having less reliance on public services.

Denise Hester, of 3526 Abercromby Drive, stated there is a fundamental problem with the housing department policy that allows redevelopment, i. e., demolition as it is defined in the City's Comprehensive Plan, but has no economic development objectives for the residents in these areas. She requested that CDBG funds be redirected for streetscape and community policing for the Fayetteville Street corridor and uses be coordinated with Public Works and Economic Development to achieve greater efficiencies. She requested \$1.5 million be directed from CDBG funding namely from the code enforcement and administrative money associated with code enforcement.

Larry Hester, of 3526 Abercromby Drive, stated in reading the plan and the plan to end homelessness, he did not see the landlord repair plan. He expressed concern with the direction of code enforcement in low economic communities, stated there needs to be a change in the direction in making our City pro-active instead of reactive, and reported none of housing providers reflect the communities in which they are providing houses and there are no non-emergency repair grants for the elderly in the plan.

Council Member Stith asked for clarification on the process in designating boundaries.

Community Development Director Mike Barros reported the process for the boundary issue will be a separate agenda item for discussion in August.

Council Member Brown asked staff to address a suggestion from a citizen to take \$1.5 million from administrative cost and code enforcement.

Community Development Director Mike Barros made comments on the policy. He reported what the administration is allowed to utilize: up to 20% of the entitlement for administration which has to be directly related to administering the entitlement and carrying out the activities of the entitlement; 2) inspections as a program; 3) the actual cost of removing dilapidated and dangerous buildings; and 4) the costs of having inspectors and there is no ceiling. Mr. Barros stated it would curtail the City's ability to administer grants and address dilapidated and hazardous structures because there is no general fund money to replace this at this time.

Council Member Woodard asked staff if they are recommending funding [\$610,000] for the urgent/ repair and housing rehabilitation programs for the elderly.

Community Development Director Mike Barros replied yes. Also, he informed Council

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that staff will report back in August with another suggestion for more funding.

Mayor Bell stated this Council does not intend or have any intentions of using code enforcement as a penalty process of targeting the elderly or any intentions to take or remove anyone from their home.

MOTION by Council Member Woodard seconded by Council Member Brown to approve the FY 07-08 Annual Action Plan for the use of CDBG, HOME, ADDI and ESG funds for submission to the U.S. Department of Housing and Urban Development;

To authorize the City Manager to execute all administrative requirements and contractual documents necessary for implementation of the Annual Action Plan to include all CDBG, HOME/ADDI and ESG program agreements and related documents;

To adopt the City of Durham/U.S. Department of Housing and Urban Development Community Development Block Grant Project Ordinance in the amount of \$2,065,441.00;

To adopt the City of Durham/U.S. Department of Housing and Urban Development HOME Investment Partnerships Program/American Dream Down payment Initiative Grant Project Ordinance in the amount of \$1,710,801.00; and

To adopt the City of Durham/U.S. Department of Housing and Urban Development Emergency Shelter Grant Project Ordinance in the amount of \$337,686.00 was approved at 8:33 p.m. by the following vote: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #s 13403, 13404, 13405

Allocation of 2007- 2008 CDBG Funds

HUD Allocation		\$1,965,441	
Est. Program Income		100,000	
Total		\$2,065,441	
Recipient	Project	Award	National Objective
Neighborhood Improvement Services Department	Code Enforcement in Low/Mod neighborhoods and to support outreach in low-mod areas related to code enforcement and housing	\$501,300	Code Enforcement Low-Mod Area Benefit

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Durham County Criminal Justice Resource Center	Ex-offender job training and re-entry for 24 individuals.	\$69,606	Public Services Low-Mod Benefit
Urban Ministries	Support of Community Kitchen to serve meals to the Homeless.	\$20,000	Public Services Low-Mod Benefit
Durham Affordable Housing Coalition	Housing Counseling to provide one-to-one housing counseling to support the City's First Time Homebuyer Program to 65 individuals.	\$76,000	Public Services Low-Mod Benefit
Operation Breakthrough	Energy Efficient (Weatherization) Program to provide assistance to approximately 31 households.	\$80,000	Housing Rehabilitation Low-Mod Housing
Self Help CDC	St. Theresa/Southside –four cleared lots for new home for first time homebuyers.	\$133,156	Acquisition/ Construction Low-Mod Housing
Habitat for Humanity	Repair/Rehab Program	\$60,000	Housing Rehabilitation Low-Mod Housing
Habitat for Humanity	(SWCD) Redevelopment Project	\$71,665	Acquisition/ Construction Low-Mod Housing
Housing Rehabilitation Program (DCD)	City administered housing rehabilitation program primarily serving elderly and disabled owners (includes \$100,000 in projected program income).	\$210,626	Housing Rehabilitation Low-Mod Housing
Urgent Repair Program (DCD)	City administered urgent repair program for elderly and disabled owners to repair approximately 26 homes.	\$200,000	Housing Rehabilitation Low-Mod Housing
IDA Program (DCD)	Savings Program for down payment assistance with a City match	\$50,000	Homeownership Assistance/Low- Mod Benefit
Homeownership Programs (DCD)	Funding for the various homeownership programs administered by the Department.	\$200,000	Homeownership Assistance/Low- Mod Benefit
Administration	Partial funding of staff salaries.	\$393,088	Program

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(DCD)			Administration
	Total	\$2,065,441	

Allocation of 2007-2008 HOME Funds

HUD Allocation		\$1,240,954
Est. Program Income		160,000
ADDI		30,632
Total		\$1,431,586
Recipient	Project	Award
ReBuild Durham, Inc.	CHDO operating funds to manage new projects and acquisition and renovation of four vacant lots for affordable rental units	\$126,991
Durham Community Land Trustees	Carroll Street- Senior Apartments and CHDO operating funds for construction manager.	\$168,500
Woodland Associates	Stewart Circle – funds to assist with the renovation of 20 units. Funds are subject to HOME program income amount.	\$160,000
Housing For New Hope	Andover III -10 units of permanent housing for former homeless individuals with special needs.	\$252,000
Homeownership Programs (DCD)	Funding for the various homeownership programs administered by the Department. Includes use of ADDI funds.	\$400,000
Housing Rehabilitation (DCD)	Housing rehabilitation assistance primarily to elderly and disabled homeowners.	\$200,000
Administration (DCD)	Partial funding of staff salaries Reflects the 10% allowed by HUD	\$124,095
	Total	\$1,431,586

**Allocation of ESG Funds
(\$168,843 Available)**

Applicant	Activity	Award
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Housing for New Hope	Homelessness Prevention --provide rental and utility assistance to 20 or more households that are in imminent danger of becoming homeless.	\$47,643
Genesis Home	Operations--provides transitional shelter and weekly case management to homeless families with children. Case management includes establishing goals and working toward obtaining permanent housing, transportation, gainful employment, or a GED to increase earning potential.	\$22,500
Urban Ministries	Operations--provides emergency shelter for single adults and transitional shelter for homeless families with children.	\$25,000
Interfaith Hospitality Network	Operations--provides temporary shelter, meals, transportation, and case management to homeless families through a network of 30 congregations. Goal is to help families find employment and stable living conditions.	\$25,374
Interfaith Hospitality Network	Operations--provides temporary shelter, meals, transportation, and case management to homeless families through a network of 30 congregations. Goal is to help families find employment and stable living conditions.	\$24,884
Neighborhood Improvement Services (NIS)	Homelessness Prevention Funds retained by the Department to provide assistance citywide on a direct request basis.	\$15,000
DCD	Five percent administrative allowance.	\$8,442
	Total	\$168,843

[GENERAL BUSINESS AGENDA – PUBLIC HEARINGS]

SUBJECT: ORDERING PETITIONED IMPROVEMENT - SEWER MAIN ON BRAMBLE DRIVE FROM GENESEE DRIVE EAST TO HIGHLAND PARK OUTFALL AND COVEY COURT FROM END OF CUL-DE-SAC SOUTH TO BRAMBLE

Engineering and Stormwater Manager Lee Murphy made comments on this item.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Stith seconded by Council Member Woodard to receive public comments, and

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To adopt a Resolution Ordering Sewer Main on Bramble Drive from Genesee Drive East to Highland Park Outfall and Covey Court from end of Cul-de-sac South to Bramble Drive was approved at 8:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: ORDERING PETITIONED IMPROVEMENTS - CURB, GUTTER & PAVING, WATER AND SEWER LATERALS AND WATER AND SEWER MAINS ON SOUTHPARK DRIVE

Engineering and Stormwater Manager Lee Murphy made comments on this item.

Mayor Bell opened the public hearing.

Carolyn and Charles Tann spoke in support of this improvement urging Council to approve this item because of the issue of dust.

Mayor Bell closed the public hearing.

MOTION by Council Member Stith seconded by Council Member Woodard to receive public comments, and

To adopt a Resolution Ordering Curb, Gutter, and Paving, Water and Sewer Laterals and Water and Sewer Mains on Southpark Drive from North Property Line of PIN #0718-02-67-9878 to South Property Line of PIN #0718-02-67-9470 was approved at 8:37 p.m. by the following vote: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

SUBJECT: INITIAL ZONING MAP CHANGE - TRIANGLE METRO CENTER, PHASE 2 (Z07-07A) - NORTH OF HOPSON ROAD, EAST AND WEST OF DAVIS DRIVE

To receive public comments on the initial zoning map change for Triangle Metro Center, Phase 2 (Z07-07A);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish OI(D) and CC(D) zoning for the property described in the attached staff report; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest given that this reflects the zoning of the property in the County and in light

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of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, based on annexation by the Council and the information contained in this report.

Planning Commission Recommendation: Approval, per the resolution adopted by the Commission on December 13, 2005 attached to the staff report.

City/County Planning Director Frank Duke stated he has all the required certifications indicating all advertising for the zoning cases was submitted in conformance with the requirements of North Carolina law.

Mr. Duke briefed Council on the initial zoning map change. He mentioned this zoning reflects a recent annexation of property into the City and commented on the zoning districts between the City and the County. Because this project has been granted vested rights determination by the Board of Commissioners, Mr. Duke stated there is no effected difference as a result of the annexation by the city and that staff and the Planning Commission both recommended approval of this zoning map change.

Mayor Bell opened the public hearing. There being on one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Stith seconded by Council Member Catotti to receive public comments on the initial zoning map change for Triangle Metro Center, Phase 2 (Z07-07A);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish OI(D) and CC(D) zoning for the property described in the staff report; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest given that this reflects the zoning of the property in the County and in light of information presented in the public hearing and in the accompanying agenda materials was approved at 8:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13406

**SUBJECT: INITIAL ZONING MAP CHANGE - FAYETTEVILLE ROAD
ASSEMBLAGE (Z05-41A) - EAST SIDE OF FAYETTEVILLE
ROAD AND NORTH OF SCOTT KING ROAD – HADEN
STANZIALE**

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To receive public comments on the initial zoning map change for Fayetteville Road Assemblage (Z05-41A);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish PDR 2.000; F/J-B zoning for the property described in the attached staff report; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest given that this reflects the zoning of the property in the County and in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, based on annexation by the Council and the information contained in this report.

Planning Commission Recommendation: Approval, per the resolution adopted by the Commission on December 13, 2005 attached to the staff report.

City/County Planning Director Frank Duke briefed Council on the initial zoning map change stating there is no change in designation and that staff is recommending approval of this item.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Stith seconded by Council Member Catotti to receive public comments on the initial zoning map change for Fayetteville Road Assemblage (Z05-41A);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish PDR 2.000; F/J-B zoning for the property described in the staff report; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest given that this reflects the zoning of the property in the County and in light of information presented in the public hearing and in the accompanying agenda materials was approved at 8:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13407

[SUPPLEMENTAL ITEM]

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SUBJECT: MODIFICATION OF THE RESOLUTION ESTABLISHING A JOB CREATION AND RETENTION AND INVESTMENT INCENTIVE POLICY

Victoria Peterson requested that organizations working with ex-offenders be given an opportunity to apply for these funds for job training. Also, she expressed a concern with the threshold investment amount.

Assistant City Manager for Economic and Workforce Development Alan DeLisle made comments on the policy for this item noting it is job based and investment based. He informed Ms. Peterson that youth funds would be a better fit for what she is requesting and the City Council dropped the investment threshold from \$500,000 to \$100,000 in targeted communities.

MOTION by Council Member Stith seconded by Council Member Catotti to adopt a revised "Resolution Establishing a Job Creation and Retention and Investment Incentive Policy" was approved at 8:44 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Resolution #9449

[GENERAL BUSINESS AGENDA – PUBLIC HEARINGS CONTINUED]

SUBJECT: ECONOMIC DEVELOPMENT INCENTIVE CONTRACT WITH CAPITOL BROADCASTING COMPANY, INC.

To receive public comments on the incentive contract with Capitol Broadcasting Company, Inc.;

To adopt a Resolution Containing Findings by the City Council regarding Incentives for Diamond View II and the East Parking Garage;

To authorize and ratify conveyance of the property to Diamond View II, LLC with the revised property line and the various easements;

To authorize the City Manager to enter into an incentive contract with Capitol Broadcasting Company, Incorporated under which the City will pay a total of \$1,835,000.00 with annual payments over a ten year period and will convey the land for the Parking Deck at no charge;

To authorize the City Manager to convey the parking garage land, which is 250 S. Mangum Street and 260 S. Mangum Street pursuant to the incentive contract, subject to the easements and restrictions that the City Manager finds to be appropriate for the

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development of the Durham Performing Arts Center (DPAC), including the Declaration of Easement for Loading Dock Area and the 12-Space Easement, provided that the City Manager may make reasonable and appropriate changes to the 12-Space Easement;

To authorize the City Manager to sign the letter agreement and the parking rates and SDBE letter; and

To authorize the City Manager to modify the incentive contract, letter agreement and the parking rates and SDBE letter provided that the modifications do not increase the dollar amount and the modifications are consistent with the general intent of the respective documents.

Assistant City Manager for Economic and Workforce Development Alan DeLisle gave a brief overview of this item. He stated under the original American Tobacco agreement that was approved in 2003 the City was obligated to move forward to pay 20% of the East Deck with borrowing funds to accomplish commitment over a 20 year period and the County was going to fund 80% of that deck. He reported that the County has moved forward with an incentive based approach to their 80%. Mr. DeLisle stated the City has reviewed that approach and provided a cash flow analysis which indicates that the City will save money if it is done this way as opposed to the original way. He noted staff is proposing an incentive contract that will accomplish the savings.

Mayor Bell opened the public hearing.

Larry Hester, of 3526 Abercromby Drive, expressed concern with receiving the backup material for this item tonight and the amount of money that is being spent in downtown. He noted his community has been ignored and downtown has gotten the bulk of money that could have gone into improving the community. He raised concerns with the minority participation for the American Tobacco project; individuals working in Durham, but not living in Durham; façade provided for the American Tobacco project, but not on Fayetteville Street, and with the roads and streets in the African American community not receiving the type of commitment as in downtown.

Victoria Peterson, of Triangle Citizens Rebuilding Communities, expressed a concern with deterioration of areas in the African American community and referenced the efforts of Mr. Goodmon providing work for African American males.

Mayor Bell closed the public hearing.

Council Member Catotti highlighted the investment along the Fayetteville Street corridor. She mentioned that there have been 8 to 10 facade grants on Fayetteville Street in the last two years, the City spent \$2.5 million per year on job creation/workforce development and reported the total investment compiled for the Fayetteville Street corridor over the last 20 years has been in excess of \$20 million. Also, she made comments in support of this item.

City Attorney Blinder explained the City's commitment under the development agreement from

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2003. He noted the item tonight is a proposal from the administration for an alternate way of satisfying the City's contractual obligation.

Council Member Brown made comments in support of the incentives given to Mr. Goodmon commenting on the prior condition of American Tobacco buildings and commented on the investment and dollar amount along the Fayetteville Street corridor.

Mayor Bell addressed comments made by Mr. Hester. He noted the whole downtown piece has been for the best interest of this complete community because it is a much better environment than it was a year ago. Also, the Mayor made comments on this item, noting it pays for itself through revenue, and increased property taxes.

City Attorney Blinder asked Council to vote on the second motion first and then take a vote on the remaining motions.

MOTION by Council Member Woodard seconded by Council Member Brown to adopt a Resolution Containing Findings by the City Council regarding Incentives for Diamond View II and the East Parking Garage was approved at 9:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Resolution #9450

MOTION by Council Member Woodard seconded by Council Member Brown to receive public comments on the Incentive Contract with Capitol Broadcasting Company, Inc.;

To authorize and ratify conveyance of the property to Diamond View II, LLC with the revised property line and the various easements;

To authorize the City Manager to enter into an incentive contract with Capitol Broadcasting Company, Incorporated under which the City will pay a total of \$1,835,000.00 with annual payments over a ten year period and will convey the land for the Parking Deck at no charge;

To authorize the City Manager to convey the Parking Garage Land, which is 250 S. Mangum Street and 260 S. Mangum Street pursuant to the incentive contract, subject to the easements and restrictions that the City Manager finds to be appropriate for the development of the DPAC, including the Declaration of Easement for Loading Dock Area and the 12-Space Easement, provided that the City Manager may make reasonable and appropriate changes to the 12-Space Easement; and

To authorize the City Manager to sign the letter agreement and the parking rates and SDBE letter; and

To authorize the City Manager to modify the incentive contract, letter agreement and the parking rates and SDBE letter provided that the modifications do not increase the dollar

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amount and the modifications are consistent with the general intent of the respective documents was approved at 9:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: STREET CLOSING - WHITCOMB STREET - 484.46 LINEAR
FOOD WHITCOMB STREET RIGHT-OF-WAY (SC07-01) - SELF-
HELD CDC**

To receive public comments on the closing of 484.46 linear feet of Whitcomb Street, east of Underwood Avenue and west of Chapel Hill Road; and

To defer action with regard to the street closing until September 17, 2007 unless the outstanding issues have been resolved prior to that date.

City/County Planning Director Frank Duke briefed Council on the street closing. He noted staff cannot support this item because there is a City park that is affected by this closing. He reported the park was funded with federal dollars and until there is federal approval for the relocation of the park, it would create a conflict with the first requirement under state law. He noted the applicant is still requesting that the public hearing be opened so that they can proceed with their application for grant funding. Mr. Duke noted staff is recommending that the public hearing be opened and to defer action until all outstanding issues have been resolved or until the September 17, 2007 City Council Meeting.

Mayor Bell opened the public hearing.

Lanier Blum, representing Self-Help, made comments on the application process which requires that all public hearings take place before submitting an application. She urged Council to consider taking action on this item in September.

For clarification, City/County Planning Director Frank Duke noted staff is recommending that Council close the public hearing and defer action on the closing until all outstanding issues have been resolved or the September 17, 2007 City Council Meeting whichever comes earlier.

Council held discussion on whether to close or continue the public hearing.

Lanier Blum, representing Self-Help, made comments in support of closing the public hearing. She stated N C Housing Financial Agency requires that all public hearings have been held before they can apply.

Mayor Bell closed the public hearing.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-

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McFadden to receive public comments on the closing of 484.46 linear feet of Whitcomb Street, east of Underwood Avenue and west of Chapel Hill Road; and

To defer action with regard to the street closing until September 17, 2007 unless the outstanding issues have been resolved prior to that date was approved at 9:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

[ITEMS PULLED FROM CONSENT AGENDA]

**SUBJECT: AMENDMENT TO THE CITY OF DURHAM EMPLOYMENT
AND TRAINING 2006-2008 GRANT PROJECT ORDINANCE
#13343**

Victoria Peterson, representing Triangle Citizens Rebuilding Communities, asked that employment dollars be set aside for training for non-profits.

Assistant City Manager for Economic and Workforce Development Alan DeLisle outlined the purpose of this item. He noted nonprofits can access dollars, but there is a RFP process.

Mayor Bell asked Victoria Peterson to contact staff and requested staff to report back to Council regarding Ms. Peterson's concern--request for funding for her program/initiative fiber/copper training.

Assistant City Manager for Economic and Workforce Development Alan DeLisle indicated that he can meet anytime this week and can report back next week on Ms. Peterson's request. He mentioned letters have been written to Ms. Peterson explaining the process, but will go over process again.

MOTION by Council Member Woodard seconded by Council Member Brown to authorize the City of Durham North Carolina and the State of North Carolina FY 2006-2008 Employment and Training Grant by executing the grant documents; and

To adopt the City of Durham North Carolina and the State of North Carolina FY 2006-2008 Employment and Training Grant Project Ordinance superseding Grant Project Ordinance #13343 in the amount of \$2,057,707.00 was approved at 9:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13397

**SUBJECT: HERITAGE SQUARE/GOLDEN BELT NEIGHBORHOOD
REVITALIZATION**

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To authorize the City Manager to execute non-binding deal points between the City of Durham and Woodlake Avenue Partners and Edgemont Realty, LLC.

Assistant City Manager for Economic and Workforce Development Alan DeLisle briefed Council on the Heritage Square/Golden Belt Neighborhood Revitalization highlighting the square feet, economic impact, location, studies--RKG, gap analysis performed by ERA, and fiscal impact. He stated the City does not have the capacity to fill the full gap which is \$12.3 million and based on the financial return the City had the capacity of filling half of that gap at \$6.1 million. He continued his comments highlighting the private/public investment. He noted this is a performance based contract and the project has to be well on its way with private dollars being invested for the City to invest the first installment of the incentive which is the \$2 million streetscape development and the project has to be completed for it to receive the cash incentives over a 10-year period. He reported the performance based incentives only occur after the certificates of occupancy are issued and that is no sooner than July 1, 2011 and the streetscape commitment would not have to occur in this coming fiscal year, but would have to occur July 1, 2008 moving forward with design funds. He outlined the developer's commitment and next steps and stated this item is for non-binding deal points.

Council Member Stith expressed concern with incurring debt on the \$2 million and the liability issue. He made comments on the issue of the gap funding.

Sterlin Holt, Sr., representing the Fayetteville Street District, noted the Redevelopment Commission destroyed the African American business district during 1960-1970. He stated the City of Durham has neglected the Hayti district and noted the Fayetteville Street business owners pay taxes and should have top priority when it comes to improving the area of the business district.

Andy Rothschild, of 611 Watts Street, spoke in support of this project discussing the economic impact of this project.

Mozella McLaughlin, of 1929 Cecil Street, expressed concern that no major improvements they have asked for prior to this item have been made to the Fayetteville Street area.

Denise Hester, of 3526 Abercromby Drive, asked Council to do that right thing by adopting and funding the Fayetteville Street plan and the streetscape for the entire length of the Fayetteville Street in this budget cycle. She expressed concern with the deal points referencing that the developer is not using all of the square footage for income for this project, figures not consistent in the staff report vs. developer's report, 10% cap is too high, gross income and vacancy rate not stated, operating ratios; parking deck not a part of the budget, etc. She asked Council to complete a thorough performance on this project, to not approve this item because there are so many questions/missing information and the Fayetteville Street group made their request first.

Rosalind Fuse Hall, representing NCCU, spoke in support of this project noting it would

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be a marvelous opportunity for faculty, staff and students; it would energize and add more retail opportunities for offices on campus.

Betty R. Woods, of Rolling Hills, spoke in support of this item. She urged Council to review the financial plan carefully and to provide citizens with the truth about this matter.

R. Kelly Bryant, Jr., of 618 Bernice Street, spoke in support of this item because the developer met with him and it appears they are making efforts to provide the type of businesses they have asked for.

Ferad Ali, representing N C Institute of Minority Development, spoke in support of this project noting it will have lots of viability and improve the community.

Rev. Carl Kenney, of West Village, made comments in support of this item.

John DeBerry, 4121 Trotter Ridge Road, spoke in support of this item urging Council to approve this item.

Larry Hester, of 3526 Abercromby Drive, noted he is troubled with the growing disparity between neighborhoods and between residents in those neighborhoods. He noted the policies of Council favor big businesses and not the small business person, demolition rather than preservation and rehabilitation, and one section of town over the other. He noted the Fayetteville Street group requested streetscape improvements two years ago and asked that the businesses on Fayetteville Street be uplifted from NC 147 to Beechwood cemetery.

Carolyn Boone spoke in opposition to this item and made comments in support of the Fayetteville Street Plan. She urged Council to postpone the vote, redo the proposal, make it fair and then bring it back for approval at a later date.

Rev. Cornelius Battle urged Council to be fair and invest the necessary funds in the Fayetteville Street corridor to allow it to maximize its full possibilities and potential.

Victoria Peterson expressed concern with the appearance of the inner-city. She spoke in support of this item.

Mayor Bell noted this is not a contract, but business deal points. Because there is a financial gap, the Mayor noted the developer understands that he has to find some way to fill the gap and provide a financial plan. The Mayor stated the parking decks are the responsibility of the developer. He noted this project is not a grant or subsidy to the developer, basically it's the City investing its money based on the return that it expects if the development comes to fruition. He made comments on the difference in this project vs. the Fayetteville Street corridor. He stated he does not see how the City can invest \$25 million and not see a plan for how the dollars will be returned.

Council Member Stith expressed a concern with the City being in the line of liability for

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the \$2 million loan.

Assistant City Manager for Economic and Workforce Development Alan DeLisle explained why staff did go above 50% on the sales tax and higher than 80% on the property tax.

Council Member Brown make comments in support of this item.

City Manager Baker stated the motion should read as follows: To authorize the City Manager to execute non-binding Deal Points between the City of Durham and Woodlake Avenue Partners and Edgemont Realty, LLC for the purpose of the development of Heritage Square/Golden Belt Neighborhood Revitalization.

MOTION by Council Member Woodard seconded by Council Member Clement to authorize the City Manager to execute non-binding Deal Points between the City of Durham and Woodlake Avenue Partners and Edgemont Realty, LLC for the purpose of the development of Heritage Square/Golden Belt Neighborhood Revitalization was approved at 10:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**SUBJECT: GRANT PROJECT ORDINANCE FOR HUD COOPERATIVE
GRANT FUNDING**

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to accept the City of Durham North Carolina and the U.S. Department of Housing and Urban Development (HUD) Funds by executing the grant documents; and

To adopt the City of Durham Grant Project Ordinance for HUD Cooperative Grant funds in the amount of \$61,500.00 was approved at 10:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13398

**SUBJECT: GRANT PROJECT ORDINANCE FOR HUD KATRINA FUNDS
AND HUD COOPERATIVE GRANT FUNDS**

Victoria Peterson asked for clarification on this item.

Director of Human Relations Yvonne Pena addressed how the City received this award.

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to accept the City of Durham North Carolina

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and the Department of Housing and Urban Development (HUD) Katrina Grant Funds and HUD Cooperative Grant Funds by executing the grant documents; and

To adopt the City of Durham Grant Project Ordinance for Katrina funds and HUD Cooperative Grant Funding in the amount of \$113,620.00 was approved at 10:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13399

SUBJECT: WAL-MART CRIME PREVENTION GRANT AWARD

Victoria Peterson, of Triangle Citizens Rebuilding Communities, noted her organization needs \$8,000 to assist with their fiber optic copper program to work with ex-offenders. She asked the City Manager if she could receive amount [\$2,500] outlined in this agenda item.

City Manager Baker noted these dollars are earmarked for the Police Department, but would investigate this issue to see if funds could be utilized for what Ms. Peterson is requesting.

MOTION by Council Member Woodard seconded by Council Member Clement to authorize the City Manager to accept the Wal-Mart Crime Prevention Grant by executing the grant documents; and

To adopt the Wal-Mart Crime Prevention Grant Project Ordinance in the amount of \$2,500.00 was approved at 11:00 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Ordinance #13401

SUBJECT: FUNDING PROPOSAL FOR DEVELOPMENT OF SENIOR HOUSING ON CITY-OWNED LAND ON 2.3 ACRES AT CHAPEL HILL ROAD AND WHITCOMB STREET

Victoria Peterson asked that a workforce development component be added to this item to make sure local citizens are employed.

City Manager Baker noted commitments have been made referencing page 4 [SDBE summary] of the staff report.

MOTION by Council Member Woodard seconded by Council Member Catotti to

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authorize the City Manager to accept a grant in the amount of \$500,000.00 from the Center for Community Self-Help;

To authorize the City Manager to make a grant to Self-Help Ventures Fund in the amount of \$500,000.00 to fund a Senior Housing Development at Chapel Hill Road and Whitcomb Street, contingent upon the project receiving low income housing tax credits from the North Carolina Housing Finance Agency and the City having received a grant in the same amount from the Center for Community Self-Help; and

To authorize the City Manager to execute a grant agreement in the amount of \$500,000.00 so long as the grant agreement terms are consistent with this motion and the representations in the accompanying agenda item was approved at 11:01 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

At the request of Council Member Clement, City Manager Baker noted he will provide an update at a later date on the grant awarded to Durham and Raleigh for gangs.

There being no further business to come before the City Council, the meeting was adjourned at 11:04 p.m.

Linda Bratcher
Deputy City Clerk

D. Ann Gray, CMC
City Clerk